

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JON CASCELLA,

Plaintiff,

v.

UNITED STATES of AMERICA,

Defendant.

No. 4:21-CV-01490

(Chief Judge Brann)

ORDER

AND NOW, this 30th day of August 2022, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED** that:

1. Defendant's motion (Doc. 44) to dismiss pursuant to Federal Rule of Civil Procedure 12(b) is **GRANTED** in part and **DENIED** in part, as follows:
 - a. Defendant's motion to dismiss under Rule 12(b)(6) is **GRANTED** as to any official capacity claims against Dr. Schmidt, Yordy, and Foura. Said claims are **DISMISSED** with prejudice.
 - b. Defendant's motion to dismiss under Rule 12(b)(1) is **DENIED**.
2. The Clerk of Court is directed to terminate all defendants except the United States of America.
3. Defendant's motion (Doc. 44) for summary judgment pursuant to Federal Rule of Civil Procedure 56 is **DENIED** without prejudice.
4. Plaintiff shall have **30 days** from the date of this Order to provide evidentiary support regarding administrative exhaustion of his FTCA claims, as explained in more detail in the accompanying Memorandum.

5. Defendant may, if desired, file a response to Plaintiff's supplemental filing described in paragraph 4 above within 14 days of receipt thereof.
6. Following a determination by the Court on the jurisdictional issues in this matter, a case management order shall issue providing the parties with discovery and dispositive motion deadlines. The Court admonishes the parties that discovery in this matter should be ongoing. *See* LOCAL RULE OF COURT 5.4.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge